

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CYBERFONE SYSTEMS, LLC,

Plaintiff,

v.

FEDERAL EXPRESS CORPORATION, ET
AL.,

Defendants.

Civil Action No. 1:11-cv-834-SLR

DEMAND FOR JURY TRIAL

**DECLARATION OF ROCCO L. MARTINO IN SUPPORT OF CYBERFONE
SYSTEMS, LLC'S ANSWERING BRIEF IN RESPONSE TO DEFENDANT HYATT
CORPORATION'S MOTION TO DISMISS HYATT CORPORATION AS A PARTY
FOR MISJOINDER, OR IN THE ALTERNATIVE, TO SEVER AND TRANSFER THE
CLAIMS AGAINST HYATT CORPORATION**

I, Rocco L. Martino, declare and state as follows:

1. I am the founder, Chairman, and CEO of Cyber Technology Group, Inc. and CyberFone Technologies, Inc. I have personal knowledge of the facts contained in this declaration and, if called upon to testify to the truth of them, I could and would do so competently.
2. I understand that CyberFone Systems, LLC ("CyberFone") has alleged that Hyatt Corporation ("Hyatt") and the other defendants in this action infringe U.S. Patent Nos. 5,805,676; 5,987,103; and 6,044,382 ("Asserted Patents"). I am the sole named inventor on the Asserted Patents.
3. I also understand this litigation is presently before the U.S. District Court for Delaware and that Hyatt seeks to transfer the case to the U.S. District Court for the Northern District of Illinois. It is also my understanding that CyberFone has asserted at least one of the

Asserted Patents in five other lawsuits that are also currently pending in the United States District Court for Delaware.

4. I am currently a resident of Villanova, Pennsylvania, and have been for the past 47 years. My home is approximately 30 miles from the U.S. District Court in Delaware. In contrast, I live nearly 800 miles from the U.S. District Court in Chicago, Illinois.

5. I have extensive ties to my community and devote a significant amount of my time to charitable and philanthropic organizations in Pennsylvania. I am also an author with twenty published books, and am working on two books at this time. In 1990, my wife and I created the Rocco and Barbara Martino Foundation with the objective of impacting leadership in Catholic youth and in furthering the objectives of the Catholic Church institutions and programs, especially in education. In addition, I am currently the Co-Chair of the Spirituality Committee of the Subpriory of Our Lady of Lourdes of the Sovereign Military Order of Malta, and a member of various committees of the Archdiocese of Philadelphia, the Audit Committee of the Papal Foundation, the Executive Committee of the Stewards of St. John Neumann, and various other charitable and church organizations. I typically spend more than 40 hours each week attending meetings, conducting presentations, researching and reading reports, managing the issuance of scholarships and grants, and writing my books, drafting articles and writing blogs on behalf of these organizations and on topics I believe important. I also spend considerable time undergoing medical tests and examinations and receiving treatments primarily from doctors in Philadelphia, Pennsylvania.

6. I am 82 years old. I will be 83 in June. It would be a significantly greater inconvenience to me with regards to travel time and physical discomfort if I were required to appear in person in Illinois instead of Delaware. My wife and I have four sons and thirteen

grandchildren who all live in either Upper Merion, Pennsylvania; Annapolis, Maryland; or McLean Virginia. Due to my age and physical ailments, I am very much disinclined to be away from my home, family, and primary physicians and source of medical care.

7. In addition, I developed and reduced to practice the inventions of the Asserted Patents in Wayne and Villanova, Pennsylvania. Between 1996 and 2000, I had numerous prototypes built that embody the technologies of the Asserted Patent. Some of these still exist and are in my possession in Villanova, Pennsylvania. Three of the prototypes are somewhat functional; others are capable of being functional. These existing devices are somewhat fragile, however, since each of the prototypes were individually hand-wired and soldered 12 to 16 years ago. The prototypes would hopefully survive a short car ride to Delaware, but might fall apart and suffer irreparable damage if transported by air or truck to Illinois. Accordingly, any inspection of the prototypes should take place in the environs of Villanova, Pennsylvania.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: February 13, 2012



Rocco L. Martino, Ph.D., D.Sc., P.Eng.